



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,568	12/04/2000	Tomoshi Hirayama	SONY-U0595	4463

22850 7590 09/19/2005

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

BATES, KEVIN T

ART UNIT	PAPER NUMBER
----------	--------------

2155

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/729,568

Applicant(s)

HIRAYAMA ET AL.

Examiner

Kevin Bates

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) 8-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

This Office Action is in response to a communication made on July 8, 2005.

Claims 1, 3, and 4 have been amended.

Claims 5-13 have been withdrawn.

Claims 1-4 are pending in this application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grosh (6195646) in view of Archibald (5825883).

Regarding claims 1, 3, and 4, Grosh discloses an information processing apparatus comprising: first acquiring means for acquiring the number of times information contents are downloaded over a network (Column 7, lines 63 – 64; Column 5, lines 32 – 42); and computing means for computing a pricing index for said information contents based on a ratio of (Column 4, lines 14 – 19) the number of times said information contents have been downloaded as acquired by said first acquiring means (Column 3, lines 46 – 52).

Grosh does not explicitly indicate a second acquiring means for acquiring the number of times said information contents are reproduced; and on the number of times said information contents have been reproduced as acquired by said second acquiring means.

Archibald discloses tracking copies of digital information as they are made and passed to other mediums (Column 5, lines 4 – 9), meters that information (Column 4, lines 15 – 19), and routes that information and accounting information to an authority (Column 3, lines 46 – 47).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Archibald's teaching of tracking copies of digital content in a networked system in Grosh's disclosure of metering and weighing information to compute a price index based on the ratios of multiple factors because it eliminates the factor of piracy on sales information and informs more actual usage numbers (Column 5, lines 49 – 54).

Regarding claim 2, the combination of Grosh and Archibald discloses that said information contents include audio-visual information (Grosh, Column 1, lines 55 – 67; Archibald, Column 4, lines 41 – 44).

Response to Arguments

Applicant's arguments filed July 8, 2005 have been fully considered but they are not persuasive.

The applicant argues that the combination of Grosh and Archibald does not disclose that computing a pricing index is based on a ratio of the number of times said

Art Unit: 2155

information contents have been downloaded and the number of times the information have been reproduced. The examiner disagrees, Grosh discloses multiple factors into calculating a price of an item where one of those items is the number of times the item has been downloaded, and also other factors, where all those factors are added to the price partially or factors/ratios of the total price. Archibald discloses that the number of times the information is reproduced should be added into the price index, thus adding another factor to Grosh's teaching, so the combination teaches that the number of downloads and the number of reproductions should be calculated into the price index by using ratios.

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U. S. Patent No. 5745883 issued to Krist, because it discloses document metering and billing system.

U. S. Patent No. 6119109 issued to Muratani, because it discloses pricing based on content information.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

Art Unit: 2155

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Bates whose telephone number is (571) 272-3980. The examiner can normally be reached on 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KB

KB
September 15, 2005


SALEH NAJJAR
PRIMARY EXAMINER